

The complaint

Mr S and Mrs U complain that Barclays Bank UK PLC unfairly recorded missed payments on their credit files in relation to their buy to let mortgage.

A family member, who I'll refer to as Mrs C, has represented Mr S in bringing this complaint to us. Mrs C says the missed mortgage payment markers prevented Mr S from re-mortgaging his properties. He paid interest at his lenders' standard variable rates (SVR), he missed out on lower interest rate mortgages, and he was unable to borrow additional funds to repay loans taken out to refurbish properties and cover interest payments while on lenders' SVRs.

Mrs C says Barclays was unable to provide clear information on calls and failed to update Mr S's address for some months.

Mrs C asks that Barclays removes the adverse data, gives Mr S an interest free loan of £150,000 while he re-mortgages, offers a mortgage on fair terms and pays compensation for financial loss and stress and worry.

What happened

Mr S paid the mortgage by direct debit. The direct debit was cancelled in October 2022 with the result that the payments due in November 2022 and December 2022 weren't collected. Both parties say they didn't cancel the direct debit.

Mr S called Barclays in January 2023 when he became aware that missed payments had been recorded on his credit file. A new direct debit was set up. Another payment was missed in March 2023. Mrs C says this was due to errors by Barclays with the new direct debit.

Barclays agreed to remove the missed payment marker for March 2023. It didn't agree to remove the missed payment markers for late 2022. It said this was accurate information as these payments were missed. It offered £600 compensation for poor service, including the delay in updating Mr S's address.

Our investigator said Barclays should have told Mr S about the missed payments. He said if it done so Mr S would have arranged to make the payments. Our investigator said the missed payment markers weren't an accurate reflection of Mr S and Mrs U's creditworthiness and it should remove them. Our investigator said the £600 offered by Barclays for poor service was fair.

Our investigator didn't recommend that Barclays pay compensation for the consequential loss claimed by Mr S and Mrs U. He wasn't certain from the evidence provided that any problems they had re-mortgaging or obtaining credit was due to the late payment markers.

Barclays agreed and said it had now removed the missed payment markers for November 2022 and December 2022.

Mrs C didn't agree. In summary, she said it was obvious the problems Mr S had re-

mortgaging were due to the missed payment markers.

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.

Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Did Barclays make an error when it recorded the missed payments on Mr S's and Mrs U's credit files?

Mortgage payments weren't made in November 2022 and December 2022. It's not clear from the evidence that this was due to an error by Barclays. I don't think it was wrong or unfair for Barclays to record the missed payments on Mr S's and Mrs U's credit files.

Should Barclays have removed the missed payments from Mr S's and Mrs U's credit files in early 2023?

Mr S contacted Barclays in early 2023 and asked for the missed payments to be removed from his credit file. Mr S says Barclays agreed to do this. I think Barclays most likely agreed to request this internally, based on what Mr S had told it.

Barclays didn't agree to remove the late payment markers. I need to take into account here what Barclays knew at this time. Barclays' records – which it shared with us – say the direct debit was “*cancelled by payer*”.

I'm not suggesting that I think Mr S cancelled the direct debit himself. I'm only considering whether Barclays acted fairly based on what it knew at that time. And based on what it knew at the time, I can't fairly say that it should have removed the missed payments from Mr S's and Mrs U's credit files in January 2023.

However, I think Barclays should have re-considered when Mr S called again in February 2023 and raised a complaint. Mr S said he thought the direct debit had been cancelled due to an error by Barclays and it had failed to tell him about this as it had sent correspondence to the wrong address.

Mr S called Barclays in November 2022 to update his address and it had failed to record this correctly in its systems. But this wasn't why Mr S didn't receive notification about the missed payments.

Barclays didn't contact Mr S about the missed payments as it doesn't do this for buy to let mortgages. It says it expects buy to let customers to actively manage their accounts. Mrs C says rules on mortgage regulation required Barclays to notify Mr S within 15 days of the missed payment. The rules Mrs C refers to (set out in MCOB 13) relate to regulated mortgages. This was a buy to let mortgage and not a regulated mortgage and so Barclays wasn't required to write to Mr S and Mrs U about the cancelled direct debit or the missed payment. This service isn't a regulator and I can't fairly require Barclays to change its processes regarding when it notifies buy to let customers of arrears or missed payments.

Letting property is a business and Barclays is entitled to expect Mr S to manage the account accordingly. However, Mr S had set up direct debits and he had no reason to think in late 2022 that payments wouldn't be made as usual. Mr S called Barclays in November 2022 to

change his address. Barclays could have made him aware of the cancelled direct debit and the first missed payment during the call.

Our investigator contacted the bank that Mr S's paying account is with. It said it had no record of cancellation for the direct debit. Had Mr S contacted it and asked for the direct debit to be cancelled I'd expect there to be a record of this.

Mr S says if Barclays had made him aware of the cancelled direct debit and first missed payment he'd have brought the account up to date and avoided the adverse credit on his credit file. I think he'd have done so, given he contacted Barclays and made a payment to bring the account up to date as soon as he became aware of the problem in January 2023.

I don't think Mr S cancelled the direct debit, intentionally or in error. Mr S brought the account up to date as soon as he was aware of the missed payments. I don't think the record of the missed payments is a fair reflection of how the account was managed and Mr S's ability to pay. And so I think it's fair and reasonable that Barclays updates Mr S and Mrs U's credit files to remove the missed payments recorded for November 2022 and December 2022. It says it has now done this.

The new direct debit and further missed payment

Mrs C says the new direct debit set up in early 2023 didn't work. The payment due in March 2023 bounced back. Barclays agreed to remove the missed payment recorded in March 2023 as Mr S made another payment within the month. However, it didn't do this until August 2023.

Mr S says this third missed payment on his credit file prevented him re-mortgaging as no mortgage lenders accept three recent missed mortgage payments.

Mrs C says the problems with the new direct debit are proof that the first direct debit was cancelled due to an error by Barclays. I don't think that follows. While it remains unclear how the direct debit was cancelled in October 2022, there's no evidence this was due to an error by Barclays. Both Barclays' records and the paying bank's records say it was cancelled by payer.

It's not clear why the new direct debit doesn't work. I'd suggest that Mr S contacts Barclays and ask it to look into this and set up the direct debit again – assuming he wants to make payments by direct debit.

Barclays failed to update Mr S's address

Barclays says that Mr S called in November 2022 to update his address and it failed to record this correctly in its systems.

Barclays says the only letters it sent to Mr S's previous address after this error were about interest rate changes and changes in the contractual monthly payment. It says it has recorded this as a low risk data breach. If Mr S remains concerned about this, he could consider contacting ICO.

Should Barclays pay compensation for financial loss?

The main issue here is whether I should require Barclays to pay compensation to Mr S and Mrs U for financial loss. For me to do so, I'd need to find that Mr S and/or Mrs U suffered financial loss due to an error by Barclays.

Mrs U said she'd had a problem with a credit application. She didn't provide evidence to support this or to demonstrate any financial loss.

Mr S has a number of buy to let properties. Mrs C says Mr S's business model is to buy, refurbish and re-finance properties to repay the cost of the refurbishment and any related loans. She says he was unable to do this due to the missed mortgage payments on his credit report and financial loss flowed from this.

Mr S says he wanted to re-mortgage four properties and was unable to do so due to the adverse data on his credit files. This included the property currently mortgaged with Barclays (which I'll refer to as property A), two other buy to let properties (property B and property C) and his residential property.

Property A

Mr S agreed with Mrs U that she will sell her interest in property A to him and her name will be taken off the mortgage. Mr S says he was unable to re-mortgage in his sole name with Barclays or elsewhere. He says he'll have to sell the property at a loss.

Barclays has no record of Mr S making an application to re-mortgage in his own name. Mrs C couldn't provide any application documents. She did provide emails between Mr S and Barclays in mid-2021 discussing an application and what was required to remove Mrs U from the account. These emails say Mr S needed to repay a loan for the application to meet affordability tests and there was a list of items for Mrs U to provide. It's unclear why this application didn't proceed, but I can't fairly find that this was due to the missed payments recorded at the end of 2022 – some 18 months later.

Mr S wanted to re-mortgage into his sole name. We've been told that he wanted to increase the borrowing (Mrs C has also said this wasn't the case). These issues would affect affordability and the email chain provided suggests this was a problem. It seems Mr S had been trying to re-mortgage property A for some time before the missed payment markers were recorded on his credit file. So I think it's likely there were other reasons why he was unable to do this, unrelated to the adverse data recorded by Barclays on his credit file in late 2022. In the circumstances, I can't fairly require Barclays to compensate Mr S (or Mrs U) for any losses that flow from him being unable to re-mortgage property A – including paying interest at the SVR, borrowing to cover the cost of this and any loss on the sale of the property.

The residential property

Mr S and Mrs C have a joint mortgage for the residential property. Mrs C said Mr S contacted their mortgage lender for their residential property in March 2023, six months ahead of the product expiring. Mrs C said the value of the property had increased and they thought they'd be in a lower loan to value ratio – but would need to re-mortgage so that the property would be re-valued. Mrs C said their lender would only offer a new mortgage if the missed payments were removed. As this didn't happen, when the product expired they had to take out a new product at a higher interest rate as they were stuck in the higher loan to value ratio.

Mrs C didn't provide evidence other than Mr S's and her own testimony to support this. Mrs C said on a number of occasions she'd provide evidence from the lender. I think, in fairness, there has been more than enough time for this evidence to be provided.

Based on the available evidence, I can't fairly find that Mr S and Mrs C would have secured a better interest rate for their residential property if Mr S hadn't had the missed payments on his credit file.

The other properties and my comments about the evidence provided

Mr S said he was unable to re-mortgage property B and property C due to the missed payments on his credit file. He says he had to take out new products with the existing lender, which wasn't the best rate available in the market. And he was on the SVR while he looked into re-mortgaging.

Mrs C forwarded information from Mr S's broker with a list of about 25 lenders that the broker said wouldn't look at lending with recent missed mortgage payments or mortgage arrears. The broker recommended that Mr S take out products with his current lenders.

Mrs C says on the advice of Mr S's broker (that submitting multiple applications was pointless and could have a detrimental impact on his credit file) Mr S didn't submit any mortgage applications. Some lenders wouldn't even start the application process due to the recent missed mortgage payments on Mr S's credit files. This means they can't evidence applications being declined, or that they met lenders affordability and other criteria.

I sympathise with Mr S here. It's not easy for him to provide evidence that he'd have met all of a lender's criteria and been offered a mortgage if it hadn't been for the missed payments recorded on his credit file. I can make findings on the balance of probabilities – taking the wider circumstances and available evidence into account.

From what Mrs C says, Mr S's business model was to increase his borrowing after refurbishing properties. She says not being able to do so caused him problems as he needed to repay loans taken out to cover the costs of refurbishment and interest costs due to being on the SVR. Based on what we've been told about Mr S's business model and his need for additional funds, I think it's likely he was looking to increase borrowing on some of the properties. Interest rates and other costs increased in late 2022. All of this would affect affordability.

Mr S has a number of buy to let properties (owned solely, jointly or via limited companies). Some lenders don't lend to customers with more than a certain number of buy to let properties. Others apply different affordability and lending criteria where customers have a buy to let portfolio.

Mrs C provided notes from Mr S's mortgage broker about potential mortgage applications on behalf of Mr S. One lender declined saying this was due to affordability and failed interest rate cover requirements. One lender said the property wasn't suitable security. Another lender said its decline could be due to adverse, high debt to income ratio or didn't score high enough – it couldn't check as the process was automated.

Barclays had raised issues about affordability when Mr S contacted it in mid-2021 about re-mortgaging property A in his sole name. And it seems Mr S had been trying to re-mortgage property A for some time prior to the adverse data being recorded.

I'm sorry to disappoint Mr S. But having considered the available evidence and wider circumstances here, I can't fairly find that Mr S would have been offered mortgages for his

properties at better rates than he currently has, or at all, if it hadn't been for the missed payments recorded on his credit file.

I must be clear here that I'm not saying Barclays didn't make an error or that the missed mortgage payments didn't affect Mr S's ability to re-mortgage. What I am saying is that I can't fairly find that Mr S would have been offered mortgages for his properties if the missed mortgage payments hadn't been recorded on his credit file. And for that reason, I can't fairly and reasonably require Barclays to pay compensation for any losses that might flow from him being unable to re-mortgage his properties.

Putting things right

I think Barclays should have told Mr S about the missed payment and cancelled direct debit when he called in November 2022. This would have given him the opportunity to bring the account up to date and avoid the adverse data being recorded. Barclays should have looked into how the payments were missed and whether it was fair to remove the adverse data from Mr S's and Mrs U's credit files when Mr S contacted it in February 2023. It should have updated Mr S's address in November 2022.

I don't doubt that Barclays errors caused Mr S and Mrs U worry and inconvenience. I've taken into account that this is a buy to let mortgage and therefore part of a business. Barclays offered compensation of £600 to Mr S for its poor service. I think that's fair and reasonable in the circumstances.

I appreciate that my decision will be disappointing to Mr S and Mrs C, and possibly Mrs U. I leave it to Mr S and Mrs U to decide whether to accept my decision.

My final decision

My decision is that Barclays Bank UK PLC should:

- update Mr S's and Mrs U's credit files to remove the missed payments recorded in November 2022 and December 2022, and
- pay £600 (in total) to Mr S and Mrs U, as it offered to do. It can deduct any amounts already paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs U to accept or reject my decision before 8 November 2024.

Ruth Stevenson
Ombudsman