

## **The complaint**

Mr and Mrs G complain about Barclays Bank UK PLC's handling of their mortgage application. They say its delays and poor treatment of them meant they missed out on the interest rate product they wanted, and they're now paying a much more expensive rate.

## **What happened**

Mr and Mrs G had a mortgage with another lender which was on a fixed interest rate. The fixed rate was due to end on 30 September 2023. In April 2023, through a broker, Mr and Mrs G applied to re-mortgage to Barclays. They applied for a fixed interest rate product at 3.95% for five years.

On 26 May 2023 Barclays issued a mortgage offer for the interest rate product Mr and Mrs G had applied for. It was valid until 18 October 2023.

On 1 August 2023, the conveyancing solicitors told Mr and Mrs G that there was a restriction on the deeds to their property, and Barclays required them to be amended by way of a deed of variation before the mortgage could complete. The restriction was in connection with a piece of land shared by Mr and Mrs G's property and several others; each household pays around £100 per month for maintenance of the land.

On 9 August the solicitors asked Barclays whether it would accept indemnity insurance to satisfy its requirement for a deed of variation. Mr and Mrs G say that they, the solicitors and their broker then chased the matter repeatedly with Barclays in the month that followed to try to get an answer about this.

On 26 August Mr and Mrs G complained, because they were no further forward. They were increasingly worried about their mortgage moving onto their existing lender's standard variable rate and the expiry date of the Barclays mortgage offer. By the time Barclays confirmed that it wouldn't accept an indemnity and it would only proceed if a deed of variation could be put in place, Mr and Mrs G said it was too late to arrange a deed of variation. They felt they had no choice but to keep their mortgage with their existing lender at the best rate available – which was 6.34%, significantly higher than the rate Barclays had offered them. Their broker cancelled the Barclays mortgage application on 20 September.

In response to Mr and Mrs G's complaint, Barclays said it would only lend on properties subject to a rent charge restriction provided they met certain criteria – and Mr and Mrs G's property didn't meet those criteria. The nature of the restriction on the property meant that it wouldn't accept indemnity insurance and it would only go ahead if a deed of variation were agreed to amend the terms of the rent charge.

Mr and Mrs G referred their complaint to us. Our Investigators said that Barclays was entitled to decide not to go ahead with the mortgage without a deed of variation. But they thought it hadn't communicated as quickly or as clearly as it should have done, and recommended it pay Mr and Mrs G £750 compensation for the inconvenience and upset this caused.

Barclays accepted that conclusion but Mr and Mrs G did not. They didn't think it went far

enough to compensate them for the significant stress and anxiety Barclays caused them, or for the additional cost of the higher interest rate they're paying on their mortgage.

### **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, while I realise Mr and Mrs G will be disappointed, I've concluded that I can't fairly require Barclays to pay more than it has offered to settle this complaint. It's unfortunate that their re-mortgage application didn't go as smoothly as would usually be expected and that the Barclays mortgage didn't complete in the end, but I don't think all of this was a result of mistakes Barclays made.

Mr and Mrs G took steps in April 2023 to get a new mortgage arrangement in place in good time before their existing interest rate deal ended in September 2023. Barclays issued a mortgage offer in May 2023. That offer was binding on Barclays and could only be withdrawn in certain circumstances provided for in the offer. Those circumstances included, at supplementary condition 7:

“d) following internal investigations and/or advice from our solicitor, valuer or other professional adviser which would directly affect our decision to lend as the Bank's security might not offer adequate security or the security the Bank would have expected”

Barclays didn't ultimately withdraw the offer; Mr and Mrs G decided not to proceed because of Barclays' requirement for a deed of variation and the time it took to confirm that requirement.

It wasn't until early August 2023 that the restriction on the property deeds in the form of a rent charge came to light. There was no particular need for the solicitors to have investigated title to the property any earlier than they did, given that Mr and Mrs G didn't want the mortgage to complete until after the fixed interest rate they had with their existing lender ended on 30 September 2023.

Barclays' records show that the conveyancing solicitors told it about the rent charge on 9 August. It wouldn't have known about this restriction on the deeds until then. It replied to the solicitors the same day, on 9 August, and asked for further information about the nature and amount of the rent charge. The solicitors provided that to it on 14 August. They had also asked, on 9 August, whether it would be prepared to accept indemnity insurance instead of a deed of variation.

It wasn't until 6 September that Barclays confirmed it wouldn't accept an indemnity and it wouldn't proceed with the mortgage unless a deed of variation was put in place.

Barclays' records also show that Mr and Mrs G, the solicitors, and Mr and Mrs G's broker all contacted it repeatedly in the intervening weeks, asking it to confirm whether or not it would accept an indemnity. I think Barclays took longer than it should have done to answer that question. After Mr and Mrs G and the solicitors appealed its decision, it then asked the solicitors to advise it about the terms of an indemnity which took more time and could have been avoided, since Barclays' policy was that it wouldn't accept an indemnity in these particular circumstances.

I've noted what Mr and Mrs G have said about Barclays' insistence on a deed of variation, and that neither they when they bought the property nor any of their neighbours have had to provide such a deed to their lenders. I've also seen a copy of Barclays' policy, which

satisfies me that it did require a deed of variation in these circumstances, and it wouldn't accept an indemnity instead. That's a decision it was entitled to make, and it's not for me to say that it shouldn't have had such a policy. I'm also mindful that an increasing rent charge could affect a lender's security for a mortgage, so it is a relevant consideration for mortgage lenders.

Mr and Mrs G didn't ultimately try to arrange a deed of variation. They felt they had run out of time to do so, having been told that it could take six weeks and cost several thousand pounds. It's also possible that had they tried to arrange one they may not have been able to do so, for example if suitable terms couldn't be agreed with the holder of the rent charge. Barclays had however agreed to consider extending the mortgage offer for a few weeks to give Mr and Mrs G more time to arrange a deed of variation and, while I understand Mr and Mrs G's reluctance to do that and risk their mortgage reverting to their existing lender's standard variable interest rate and interest rates rising further in the meantime, this was their decision.

In all the circumstances, I can't fairly conclude that the Barclays mortgage would have gone ahead but for the delays I've found Barclays caused as set out above. Barclays wasn't prepared to lend without a deed of variation, it couldn't reasonably have known about the existence of the estate rent charge before it issued a mortgage offer, it's far from clear that Mr and Mrs G would have been able to obtain a deed of variation in time or at all even if Barclays or the solicitors in their capacity as Barclays' agents hadn't caused any delay, and it was Mr and Mrs G's decision to apply to their existing lender for a new interest rate product when they did.

For these reasons, I don't require Barclays to compensate Mr and Mrs G for the higher interest rate they're now paying on their mortgage. I do think Barclays should compensate them for the non-financial impact on them of the shortcomings in its handling of this whole matter. Mr and Mrs G spent hours on the phone trying to get clear information from Barclays, and it's clear that they found this whole matter very frustrating and stressful. In all the circumstances, I consider that £750 is a fair and reasonable award.

### **My final decision**

My final decision is that Barclays Bank UK PLC should pay Mr and Mrs G £750.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G and Mr G to accept or reject my decision before 27 December 2024.

Janet Millington  
**Ombudsman**